

1 CARDWELL & DOWLING, LLP
2 Elaine A. Dowling, Esq.
3 9494 W. Flamingo, Ste. 101
4 Las Vegas, Nevada, 89147
(702) 304-8203
4 Fax: (702) 304-8204

5 Attorneys for Plaintiff,
6 Plasma Arc Technologies, Inc.

7 **UNITED STATES DISTRICT COURT**
8 **DISTRICT OF SOUTHERN NEVADA**

9 PLASMA ARC TECHNOLOGIES, INC.,) CASE NO.:
10 A Florida Corporation;)
11 Plaintiff,) DEPT. NO.:
12 vs.)
13)
14 JOHN VOORHES, an Individual,)
15 GOLDEN EAGLE JB, LTD, a Nevada)
16 Corporation, and OXYGROUP, INC., a)
17 Nevada Corporation;)
Defendants.)
18 _____)

19 **COMPLAINT**
20

21 **COMES NOW** Plaintiff, PLASMA ARC TECHNOLOGIES, INC., by and through its
22 undersigned counsel, and files this Complaint against Defendants joint and severally, as to Defendant
23 JOHN VOORHEES, an individual and resident of the State of Nevada, and as to Defendant, GOLDEN
24 EAGLEJB, LTD, a Nevada Corporation, and as to Defendant, OXYGROUP, INC, a Nevada corporation,
25 to which Plaintiff does hereby allege against Defendants, and each of them, in furtherance thereof
26 states as follows:

27 **NATURE OF THE CASE**
28

1. This is a civil action brought forth under diversity jurisdiction against defendants for damages

1 as well as declaratory and injunctive relief for interference with contractual relations, interference
2 with prospective business advantage, for the intentional and depreciative remarks and actions to
3 Plaintiff's contracted third party equipment purchaser, precious metal feedstock partner and capital
4 funding group; regarding the purchase, sale, processing and maintenance of a Plasma-based
5 Metallurgic Recovery System; and such intentional and direct actions and efforts to interfere and
6 derail Plaintiff's contractual relations with third parties such as to obfuscate the fulfillment of pre-
7 existing contractual obligations to Plaintiff.

8 2. Plaintiff, Plasma Arc Technologies, is in the business of providing advance thermal
9 processing systems; including but not limited to, plasma-based elemental reclamation technology
10 for use, among other purposes, in recovering precious and noble metals from complex ore
11 concentrates.

12
13 3. Defendants, John Voorhees, Golden Eagle JB, LTD, Oxygroup, Inc., represent a collective
14 consortium of business interests under common ownership, management and control. These entities
15 are engaged primarily in the collective attempt to develop highly specialized technological "know-
16 how" to recover precious metals from complex ore concentrates they claim, through joint or
17 severable title, to currently own by and under the leadership and control of Defendant Voorhees.

18
19 4. That in an effort to acquire highly-specialized technical expertise that Defendants did not
20 possess, as well as acquire necessary capital funding that Defendants did not possess to finance
21 Defendants' recovery endeavor of its precious metal ore concentrate; Defendants have made, in
22 whole and in part, false and defamatory statements about Plaintiff, Plasma Arc Technologies, to its
23 (1) contracted metallurgic recovery system purchaser, (2) complex ore feedstock supplier, and (3)
24 capital funding group; for the intentional and malicious purpose to obfuscate, derail, and terminate
25 such pre-existing contractual relationships held by Plaintiff for Defendants' direct business
26 advantage and economic benefit.

27
28 5. That as a direct result and proximate cause of Defendants illicit and malicious actions and
misconduct, Plaintiff has been substantially harmed, and continues to suffer injury.

PARTIES

6. Plaintiff, Plasma Arc Technologies, is and at all times relevant, been incorporated and registered with the Division of Corporations of Florida, and the Division of Corporations of Texas, and a Licensed Business Operator in Ontario, Canada; as well as licensed to do business and holding an office in Lake Wylie, North Carolina and Seoul, South Korea; as well as joint ventured and holding project offices in New York and West Virginia; as well as doing business with strategic alliance partners in California, Kentucky, Illinois, Saudi Arabia, and Columbia. It holds a United States administrative office at 201 S. Biscayne Blvd., 28th Floor, Miami, FL 33131.

7. Defendant, John Voorhees, is an individual, and at all times relevant, held his primary residence Nevada; located in 2706 Briarcliff Avenue, Hendersonville, Nevada, 89074.

8. Defendant, Golden Eagle JB, LTD is a company incorporated in the State of Nevada and holds its principal place of business at 1350 E. Flamingo Road, Ste 3326, Las Vegas, Nevada, 89119, and has its registered agent listed as Cheryl Curtis, at 6261 Huntington Ridge Ave, Las Vegas, NV, 89139.

9. Defendant, Oxygroup, Inc., is a company incorporated in the State of Nevada, and holds its principal place of business at 1350 E. Flamingo Road, Ste 3326, Las Vegas, Nevada, 89119, and has its registered agent listed as Quality Stock Transfer, Inc, 318 South Maryland Parkway, #105, Las Vegas, Nevada, 89101

10. That the party Defendants are referred to at times herein individually and so designated as such, and also collectively as "Defendants" to include the joint or severable conduct of one or all of the Defendants as such allegations may be so deemed applicable to conduct as alleged against Defendants hereto in general, and that shall be more specifically alleged herefrom as shall be further identified upon discovery proceedings.

JURISDICTION AND VENUE

11. That jurisdiction is appropriate in this case under 28 U.S.C. § 1332(a)(1) conferring statutory diversity jurisdiction in federal court as herein requires that the parties be citizen of different states.

12. That at all times relevant to this action, Plaintiff is a Florida based corporation with its principal place of business in Florida and duly registered with the State of Florida, Secretary of State, Division of Corporations.

13. That at all times relevant to this action, Defendant, John Voorhees, is a Nevada resident, owning a home and holding his primary state citizenship in the State of Nevada

14. That at all times relevant to this action, Defendant, Oxygroup, Inc, is a Nevada corporation with its principal place of business and registered agent in Nevada.

15. That at all times relevant to this action, Defendant, Golden Eagle JB, LTD, is a Nevada corporation with its principal place of business and registered agent in Nevada.

16. That the amount in controversy in this action exceeds \$17,250,600.00, USD exclusive of interest and costs, and is between citizens of different states. Thus, this Honorable Court through its statutory authority as herein described has diversity jurisdiction over this action under 28 U.S.C. §1332, and/or actual controversy jurisdiction under 28 U.S.C. §2201 and §2202.

17. That venue is proper in this District pursuant to 28 U.S.C. § 1391(a)(1) and (2) because Defendants reside and/or maintain its principal place of business in the District and conduct business activities pursuant to the cause of action giving rise to this Complaint.

GENERAL ALLEGATIONS

18. That on October 14, 2009, Plasma Arc Technologies (also referred to herein as "Plasma Arc") entered into an Equipment Purchase and Sales Contract (See Exhibit 1) with Galvin Metals, Inc. (also referred to herein as "Galvin Metals") whereby Galvin Metals was to purchase from Plasma Arc Technologies two plasma-based metallurgic recovery unit for the purchase price of \$17,250,600.00 USD, and 13,131,000.00 USD, for a total contract price of thirty million dollars (\$30,381,600.00 USD).

19. That the purpose of this plasma-based metallurgic recovery system is to process various complex mineral rich ores using the Plaintiff's proprietary plasmafication technology to recover such precious and noble metals groups. Moreover, the application of Plaintiff's plasmafication process and system as to the elemental recovery of gold, silver and platinum group metals (PGMs) would generate very lucrative returns for Plaintiff based on the results of preliminary testing and verified assays conducted and relied upon by Plaintiff.

20. That Defendant, Voorhees, as an associate of Richard Galvin (e.g. President of Galvin Metals, Inc.) had certain and definite knowledge of the existence of the contract between Plasma Arc and Galvin Metals regarding the use of plasma technology to reclaim the AU, AG and PGM's from complex ore concentrates.

21. That Defendant, Voorhees, as a business associate of Richard Galvin had certain and definite knowledge that Plasma Arc was selling to Galvin Metals a plasma system/equipment pursuant to a written contract that stated, in part, that Plasma Arc would deliver to Galvin Metals a retrofitted and upgraded plasma-based metallurgic recovery system.

22. That the delivery of such a specially retrofitted and upgraded plasma arc system constituted a material element to the contract between Plasma Arc and Galvin Metals.

1 23. That the Defendant, Voorhees, has publicly claimed and made attestations to being "in the
2 field of mineral research and the recovery, extraction and refining of precious metals ..." for over
3 30 years, and actually contributed in performing some of the assays on the mineral rich ores
4 contemplated within this pleading and relied upon by the Plaintiff therefrom.

5
6 24. That the attestations provided by Defendant Voorhees as purported in his mineral analysis
7 constituted material representations to the entering of the contract by and between Plasma Arc and
8 Galvin Metals.

9
10 25. That on December 15, 2009, Plasma Arc Technologies and Galvin Metals entered into an
11 Assignment of Contract whereby the rights to purchase the plasma-based metallurgic recovery
12 system was assigned to Metals, Milling & Mining, LLC, (also referred to herein as "MM&M") a
13 company duly licensed and authorized under the laws of the State of Delaware (See Exhibit 2).

14
15 26. That the December 15, 2009 Assignment of Contract was for the purchase and sale of two
16 plasma-based metallurgic recovery systems valued at a total contract price of thirty million dollars
17 (\$30,381,600.00 USD).

18
19 27. That, Metals, Milling & Mining, LLC consists of the principles of Galvin Metals in addition
20 to its funding partners Capital Partners. The purpose of the MM&M, LLC was to represent the
21 funding group's interest in the financial return of the metal recovery from Plasma Arc Technologies'
22 plasmafication process; including in specific, the sale of the Plasma Arc equipment to MM&M
23 pursuant to the assignment of rights and obligations from Galvin Metals to which Defendant
24 Voorhees had certain and definite knowledge.

25
26 28. That contract performance was based on a Draw Schedule upon which HFP Capital, on
27 behalf of Metals, Milling & Mining would issue *Draw Amounts* upon commencement of
28 engineering, and continue making payments through the engineering process as well as through
fabrication, delivery, installation, and initiation of processing, as well as subsequent long-term
service and maintenance contract.

1
2 29. That Plasma Arc Technologies entered into further written agreements to remain active in
3 the plasma-based processing of the precious metal ore concentrate and stay on to service, maintain,
4 and operate the facility on a perpetual basis.

5
6 30. That Plasma Arc Technologies entered into additional oral agreements with MM&M with
7 respect to proprietary technology regarding the elemental recovery of precious and noble metals from
8 complex ore concentrates.

9
10 31. That Plasma Arc Technologies entered into further oral agreements with HFP Capital with
11 respect to advancing proprietary technology regarding the elemental recovery of precious and noble
12 metals from complex ore concentrates.

13
14 32. That HFP Capital, on behalf of Metals, Milling & Mining, started issuing draw amounts in
15 accordance with the Contractual Agreement and an accompanying Draw Schedule that was first
16 received the end of December 2009 and continued monthly through the engineering phase, and to
17 continue thereafter through the equipment, fabrication and purchase phase that; included specifically
the Plasma Arc system to which Defendants have intentionally and tortiously interfered.

18
19 33. That all conditions precedent pursuant to contractual relationship between Plasma Arc
20 Technologies and Metals, Milling & Mining were satisfied and complied with by Plaintiff, Plasma
21 Arc Technologies, at all times prior to and upon the milestone date of April 1, 2010.

22
23 34. That on April 1, 2010, all engineering requirements for the fabrication and installation of the
24 plasma-based metallurgic recovery system were finished as per the terms and covenants of the
25 contractual relationship between Plasma Arc Technologies and Metals, Milling & Mining.

1 35. That as of April 1, 2010, Plaintiff, Plasma Arc Technologies, was in full compliance of all
2 contractual duties, obligations and set forth deliverables pursuant to the agreement between Plasma
3 Arc Technologies and Metals, Milling & Mining.

4
5 36. That the contractual agreement between Plasma Arc Technologies and Metals, Milling &
6 Mining called for a consecutive, subsequent payment schedule for the commencement of fabrication
7 by Plasma Arc Technologies regarding the metallurgic recovery system as per the accompanying
8 Draw Schedule, and was set for April 19, 2010 (See Exhibit 3).

9
10 37. That on or about April 9, 2010, the Defendants, by and through Defendant, John Voorhees,
11 began contacting Plasma Arc Technologies' scientist, executives and/or Board of Directors to assist
12 Defendant Voorhees in an, at the time unbeknownst, illicit scheme predicated upon repairing "his
13 plasma equipment" in an effort to get it operational for the sole purpose of processing ore for the
14 benefit of himself and his associated companies.

15 38. That, in fact, not one of the Defendants owned the equipment they were requesting to have
16 repaired; moreover, not one of the Defendant's had any written authority to issue a repair order for
17 the equipment Defendants wanted Plasma Arc to work on.

18
19 39. That under Defendant's fabricated pretext of an immediate emergency and extreme urgency,
20 members of Plasma Arc Technologies' science team started to be pressured and lured by Defendant
21 Voorhees to visit a warehouse in Montana that the Defendant and/or Defendants purported to "own"
22 a plasma system in "need of repair." In fact, neither Defendant Voorhees, nor any of the Defendants,
23 owned the equipment that Defendants were attempting to lure Plaintiffs to conduct repairs upon.

24
25 40. That in further support of the fact that there was never an emergency and that Defendants
26 were never truly serious about having "their" plasma system repaired, Defendants never provided
27 Plasma Arc a Model Number, System Make, System Schematics, Cut Sheets, General Assembly
28 Drawings, Trouble Shoot Test Results, Operational Diagnosis, or any written statement about the

1 system or its disrepair, only that it was a dire emergency and that Plasma Arc had to act fast to help
2 the situation.

3

4 41. That Defendants knowingly and intentionally exploited good faith covenants and Plasma
5 Arc's professional relationship within its industry to generally be of assistance to each other in the
6 case of an emergency situation; in light of the fact of the potential environmental and human safety
7 hazardous that exist if a plasma system is in a critical or emergency state of disrepair.

8

9 42. That, in fact, there was no state of emergency and that Defendants created a sense of
10 emergency to lure Plaintiff's scientist and key personnel to Defendants for the purpose of
11 circumventing Plaintiff's business protocol and standard business practice that would have been
12 employed when engaging a non-emergency situation in the marketplace, and gain access to
13 Plaintiff's elite scientific team in an effort to acquire confidential information, lure key personnel,
14 transition itself into Plaintiff's capital funding, and disrupt, if not destroy, Plaintiff's contractual
agreement.

15

16 43. Moreover, Defendants created a false sense of urgency and state of emergency at the Montana
17 warehouse facility as part of, and in furtherance thereof, luring Plasma Arc's key personnel into
18 interacting with Defendants' under the false pretext, and for the primary purpose to further
19 Defendant's scheme to interfere with the contractual relationship by and between Plasma Arc and
20 MM&M; by (1) acting in manner to entice Plasma Arc key team members assigned to the Plasma
21 Arc/MM&M Project to act contrary to Plasma Arc's contractual obligations to MM&M, (2)
22 simultaneously steal Plasma Arc talent and skill sets for the direct and known purpose to assist
23 Defendants with its business agenda; along with the direct, intentional and malicious purpose of
24 derailing and causing breach of Plasma Arc's contractual obligations to Galvin Metals and its
25 assignee, MM&M, its precious metal feedstock supplier, and capital funding source that was
financing the purchase and sale of the equipment pursuant to the ongoing contract.

26

27 44. That, in fact, Defendants plasma system was not in a state of emergency or disrepair at all
28 and only required basic calibrating to become operational, all of which was well within the skill-set

1 of Defendant, Voorhees, or other Defendants having had thirty plus years in the field. Nonetheless,
2 Defendants claims of emergency need of repair was nothing more than an enticement to get Plasma
3 Arc Technologies' scientist team to meet with Defendant, John Voorhees, so he could execute his
4 scheme to (1) illicitly acquire proprietary company secrets from Plaintiff, (2) tortiously acquire the
5 names and details about confidential suppliers, and (3) tortiously acquire key Plasma Arc
6 Technologies executives and/or scientist in an intentional and knowing effort to obfuscate and derail
7 the pre-existing contractual relation between Plasma Arc Technologies and its contracted system
8 purchaser, complex ore supplier, and capital funding group; as well as simultaneously advance
9 Defendants into the market position that Plasma Arc presently enjoyed under its contractual
agreements and relationships.

10

11 45. That the Defendants attempted to, and did in fact use this pretext to wrongfully initiate
12 contact with Plasma Arc Technologies' personnel, as well as tortiously insert Defendants into a
13 position to contact Plasma Arc Technologies funding group in a direct and knowing attempt to usher
14 away capital from Plaintiff at the expense of Plasma Arc Technologies' fully signed and executed
15 contractual agreement and funnel that capital to Defendants instead.

16

17 46. That in furtherance of Defendants' tortious scheme under the pretexts described herein and
18 other misconduct as so set forth, Defendants' conferred a long line of false and defamatory
19 statements to Plaintiff's funding group as well as Plaintiff's personnel that was clearly designed to
at the very least "interfere;" and inasmuch "destroy" the contractual relationship Plasma Arc
20 Technologies had with its precious metal ore supplier and its funding group, as well as generate
21 dissension within and among its own engineers, physicists and executives that were subject to
22 Defendant Voorhees false and defamatory statements on behalf of Defendants collectively.

23

24 47. That Defendants, and in specific Defendant Voorhees, in an effort to further his illicit
25 scheme, initiated telephone communications to Plasma Arc Technologies' executives in which
26 Defendant Voorhees is quoted as saying, "I put Plasma Arc in the metal business. They were never
27 doing metal until I spoke with them. That they have no knowledge about this field and that they
28 {Plasma Arc Technologies} could never figure out how to recover precious metal from this ore"

1 That these statements are complete and utter falsehoods and factually without merit in that Plasma
2 Arc Technologies and its affiliates have been operating plasma systems and recovering metals as
3 such dating back over a decade. (Please see Exhibit 4 – Past Project History).

4

5 48. That Plaintiff is informed and believes, and on that basis alleges that Defendants, and in
6 specific Defendant Voorhees, initiated phone conversations with Plasma Arc Technologies funding
7 source asserting that Plasma Arc Technologies is not qualified to process the ore and lacks the
8 fundamental knowledge and know-how to fulfill its contractual obligations, and that the funding
9 source would be better off ending the relationship *{id est, breaching the contractual relationship}*
10 with Plasma Arc Technologies and singularly pursuing a funding relationship with Defendant
11 Voorhees and Defendant companies, Oxygroup, Inc, and Golden Eagle JB, LTD *{emphasis added}*.

12

13 49. That Defendant Voorhees continued to make numerous phone calls and electronic
14 communications to Plasma Arc Technologies physicists and science team enticing them to meet with
15 Defendant for purposes that further Defendants scheme to obfuscate, circumvent and intentionally
16 cause Plaintiff to be unable to fulfill its contractual obligations with its funding group, precious metal
17 feedstock supplier and contracted equipment buyer.

18

19 50. That the Defendants assiduous and surreptitious communications with Plasma Arc's science
20 team clearly divulged Defendants-Interferer's purpose of tortiously advancing the business interests
21 of Defendants to the exclusion, detriment and disruption of the contracts and business relations
22 between Plasma Arc Technologies and its duly executed contractual partners.

23

24 51. That among Defendants' wrongful acts was to independently lure some of the Plasma Arc
25 Technologies' top personnel to perform clandestine metal recovery services for Defendants.

26

27 52. That among Defendants' wrongful acts was to intentionally make false, misleading
28 statements to Plasma Arc's key personnel about Defendants self-conducted, self proclaimed and
bloviated metallurgic assays with the direct and knowing intention to dissolve the cohesiveness of
Plaintiff's science team assigned to perform the contractual obligations of Plaintiff.

1
2 53. That among Defendants' wrongful acts was to act in a manner that disrupted the draw
3 schedule and contractual relationship between Plasma Arc Technologies and its funding group that
4 was to be issued to Plasma Arc Technologies under the contract (*See Exhibit 1*) which would have
5 the known and desired effect of Defendants causing a breach of Plaintiff's agreement to deliver the
6 metallurgic ore processing system.

7
8 54. That among the false and misleading statements made by Defendants, Plaintiff is informed
9 and believes, and thereupon alleges that such defamatory statements include but are not limited to
10 statements to Plasma Arc Technologies' (1) contracted system purchaser per its Purchase and Sale
Contract, (2) contracted precious metal feedstock supplier per its ore processing agreement, and (3)
11 key personnel in Plasma Arc Technologies executive and scientific team that Plasma Arc was not
12 qualified and/or capable to fulfill its contractual obligations and that Defendants would be a better
13 choice to pursue business with.

14
15 55. That among the false and misleading statements made by Defendants, Plaintiff is informed
16 and believes, and thereupon alleges that Defendants made defamatory statements; that include but
17 are not limited to statements that Plasma Arc Technologies was "ripping the you {funding group}
18 off" thereby asserting in the most favorable interpretation of the assertion by Defendants, an
19 insinuation of impropriety and breach of good faith covenants, and in the least favorable
20 interpretation of the comment the accusation of criminal activity on the part of Plaintiff in its dealing
21 with its feedstock supplier and funding group.

22
23 56. That among the false and misleading comments made by Defendants, Plaintiff is informed
24 and believes, and thereupon alleges that such defamatory statements include but are not limited to
25 statements that the team at Plasma Arc Technologies are "thieves and that I {i.e. Voorhees} can do
26 the project cheaper and that {i.e. the funding source} does not need Plasma Arc and to do the project
27 with me {i.e. Voorhees}. ("id est" added).

1 57. That among the false and misleading statements made by Defendants, Plaintiff is informed
2 and believes, and thereupon alleges that such defamatory statements include but are not limited to
3 statements by Defendant Voorhees that Plasma Arc Technologies' plasma scientists would be willing
4 to partner with Defendant Voorhees and/or Defendant companies to assist Defendants in recovering
5 precious metal from ore concentrates to the exclusion and detriment of Plaintiff and in clear and
6 definite breach of the contract held by Plasma Arc Technologies and known to Defendants.

7 58. That among the false and misleading statements made by Defendants, Plaintiff is informed
8 and believes, and thereupon alleges that such defamatory statements include but are not limited to
9 statements by Defendant Voorhees that Plasma Arc Technologies' plasma scientists would assist
10 Defendant Voorhees in circumventing and derailing a pre-existing agreement that Plaintiff has in
11 place to supply a commercial scale plasma system to a contracted buyer, Galvin Metals, and further
12 assist in the operation, maintenance and service of such machine.

13
14 59. That among the false and misleading comments made by Defendants, Plaintiff is informed
15 and believes, and thereupon alleges that such defamatory statements include but are not limited to
16 statements by Defendant Voorhees that Plasma Arc Technologies' Chief Plasma Physicist was in
17 Montana with Defendant Voorhees assisting Defendant in repairing his plasma machine, and that
18 Plasma Arc Technologies' Chief Plasma Physicist would be willing to work for and/or with
19 Defendant Voorhees on pursuing Defendants' desire to pursue independent business opportunities
20 regarding the precious metal ore the Defendant claims to own; when in fact Plasma Arc
21 Technologies' Chief Plasma Physicist never met Defendant Voorhees, nor did he ever make any
22 indication or affirmation that he would leave Plasma Arc Technologies' team and/or the contracted
23 projects that Plasma Arc was currently undertaking to go into business with Defendants and process
24 Defendants' supposed precious metal ore feedstock..

25
26 60. That among the false and misleading statements made by Defendants, Plaintiff is informed
27 and believes, and thereupon alleges that such defamatory statements include but are not limited to
28 statements by Defendant Voorhees directly to Plaintiff's funding group for the project that created

1 a sense of “instability and dissonance” in the commitment and technical ability of Plasma Arc
2 Technologies to deliver the agreed plasma-based metallurgic recovery systems as contracted.
3

4 61. That among the false and misleading statements made by Defendants, Plaintiff is informed
5 and believes, and thereupon alleges that such defamatory statements include but are not limited to
6 statements to Plaintiff’s funding group that created the impression of a lack of leadership and
7 control; such as the “jumping of ship” of Plasma Arc’s key plasma physicists.
8

9 62. That among the false and misleading comments made by Defendants, Plaintiff is informed
10 and believes, and thereupon alleges that such defamatory statements include but are not limited to
11 statements by Defendant Voorhees directly to Plaintiff’s funding group for the contracted project that
12 created alarm and concern regarding “team cohesiveness” and Plaintiff’s ability to deliver the project
13 on time and on budget and with the contract level of expertise, sophistication and cutting-edge
14 technological innovation.
15

16 63. That among the false and misleading comments made by Defendants, Plaintiff is informed
17 and believes, and thereupon alleges that such defamatory statements include but are not limited to
18 statements by Defendant Voorhees that misled Plasma Arc Technologies funding group that their
19 current project investment and future contractual contributions were at extreme risk and that such
20 capital funding source should not move forward with Plaintiff based on these intentionally inaccurate
21 and false facts told to Plasma Arc Technologies funding source.
22

23 64. That such inaccurate and false statements were made and communicated to Plaintiff’s
24 contracted client, feedstock partner, and capital funding source via a variety of methods and modes
25 that Plaintiff is informed and believes, and thereupon alleges were made via in-person
26 communications, multimedia communications, telephonic communications, text messaging, and/or
27 email by and among Defendants to disrupt and derail Plaintiff’s contracted system purchaser,
28 feedstock partner and capital funding source from fulfilling its contracted obligations.
29

1 65. That based upon Defendants' malicious intent, methods and modes, as well as Defendants'
2 numerous intentional communications of false and derogatory statements and acts of contractual
3 interference; Metals, Milling & Mining has not issued its next scheduled draw amount to commence
4 fabrication of the contracted plasma system.

5 66. That Defendants' false and tortious communications to Plasma Arc Technologies' contracted
6 equipment purchaser and key personnel which purported numerous and various falsehoods and
7 disparaging statements in order to "distance" investment, derail a pre-existing contractual
8 relationship, and destroy that relationship that Defendants were fully aware of, for their sole and
9 exclusive gain and greed, was a direct and intentional action aimed at obfuscating and cancelling the
10 ongoing and valued contractual relationship by and among Plasma Arc Technologies and its
11 contracted parties to the project.

12

13 **FIRST CLAIM FOR RELIEF**

14 **(Tortious Interference with Contractual Relations)**

15 67. Plaintiff hereby realleges and incorporate by reference each and every allegation set forth at
16 paragraphs 1 through 66, above, as though fully set forth herein.

17 68. That to prevail in an action for Tortious Interference of Contractual Relations, one must
18 show:

19

20 i. The existence of contract to which plaintiff is a party;
21 ii. Defendant's knowledge of the contract;
22 iii. Defendant's intentional procurement of the contract's breach;
23 iv. The absence of justification or privilege; and
24 v. Plaintiff suffered damages resulting from the breach.

25 *Ace Pro Sound & Recording, LLC v. Albertson*, 512 F. Supp. 2d 1259, 1268 (S.D. Fla.
26 2007); *Bray & Gillespie Mgmt. LLC v. Lexington Ins. Co.*, 527 F. Supp. 2d 1355, 1367
27 (M.D. Fla. 2007); *Williams Elec. Co. v. Honeywell, Inc.*, 772 F. Supp. 1225, 1235 (N.D.
28 Fla. 1991); *Restatement (Second) of Torts* § 766 (1979).

1
2 69. That tortious interference with a contract is virtually identical to the elements of a claim for
3 tortious interference with business relationships; however, it is recognized as a separate cause of
4 action. *See McDonald v. McGowan*, 402 So. 2d 1197, 1201 (Fla. 5th DCA 1981).

5
6 70. That Plaintiff operates a business making, among other thermal processing equipment,
7 Plasma-based Elemental Recycling Units that can be adapted to serve multiple processing functions
8 including; metal recovery, hydrocarbons-to-electricity systems, hydrocarbons-to-liquid fuels systems,
9 hybrid solar energy arrays, heat recovery systems, among other processes. Plasma Arc and its
principles have been in this business nearly fifteen years.

10
11 71. That Plasma Arc entered into a contract with Galvin Metals and subsequently its assignee,
12 MM&M, that was fully executed and the parties had begun performance.

13
14 72. That the existence of the contract, exhibited in Exhibit 1, shows *prima facie* evidence of a
15 contractual relationship between the parties.

16
17 73. Defendants' false statements constitute tortious interference with an existing contract held
18 by Plaintiff.

19
20 74. That Defendants, as earlier noted herein, clearly knew about the contract and relationship
21 between Plasma Arc and Galvin Metals and its assignee, MM&M, since Defendant Voorhees helped
22 in procuring the metallurgic assays on the ore concentrates.

23
24 75. That Defendants, through his illicit scheme, cloaked under the pretext of repair to a machine
25 he did not own nor had authority to fix, attempted to lure Plasma Arc personnel to his camp and
26 scare the contracted purchaser and funding group and feedstock partner from following through with
their contractual obligations.

1 76. That the Defendants' acts were designed to disinterest Plasma Arc's funding group from
2 going forward with the contracted project and "steal" some of its top scientific personnel for
3 Defendants' sole and exclusive economic and business interests for which Defendants have no
4 justification, privilege, nor excuse.

5
6 77. That Plasma Arc's business is highly specialized and having high economic barriers to entry
7 and requiring large financial commitments, and that Plasma Arc's personnel as referenced in this
8 pleading are actually some of, if not, the top plasma physicists and engineers recognized around the
world.

9
10 78. That Defendant did such acts with a conscious desire to prevent, derail, and/or terminate an
11 actual, valid contractual relationship that the Defendant had full knowledge of.

12
13 79. That Defendants intentional interference induced and caused a breach of the contractual
14 relationship and the expectancy of that relationship.

15
16 80. That the complex science and molecular biophysics involved, coupled with the fact that this
17 funding/feedstock partner had several hundred million dollars worth of complex mineral ore, makes
18 the Plasma Arc contract described herein an irreplaceable contract.

19
20 81. That Plaintiff has been damaged as a result of Defendants intentional interference.

21
22 82. As a direct and proximate result of the conduct of Defendants as alleged hereinabove,
23 Plaintiff has suffered general and special pecuniary and non-pecuniary damages in an amount to be
24 proven by contract and at trial, but not less than \$17,250,600.00 USD.

25
26 83. Defendants' actions were undertaken willfully, wantonly, maliciously and in reckless
27 disregard for Plaintiff's rights, and as a direct and proximate result thereof Plaintiff suffered
28 economic and in this case (involving this type of complex science and specialized molecular

1 biophysics) unquestionably irreparable damage in a total amount to be proven at trial, therefore
2 Plaintiff seeks exemplary and punitive damages in an amount sufficient to deter said Defendant and
3 others from similar future wrongful conduct.

SECOND CLAIM FOR RELIEF
(Tortious Interference with Business Relationship)

7 84. Plaintiff hereby realleges and incorporates by reference each and every allegation
8 set forth at paragraphs 1 through 83, above, as though fully set forth herein.
9
10 85. That to prevail in an action for Tortious Interference with Business Relationship, one
11 must show
12 ■ Plaintiff has a business relationship, not necessarily evidenced by an
13 enforceable contract;
14 ■ Defendant has knowledge of the relationship;
15 ■ Defendant intentionally and unjustifiably interfered with the
16 relationship; and
17 ■ Plaintiff suffered damages;

15 *Boldstar Tech., LLC v. Home Depot, Inc.*, 517 F. Supp. 2d 1283, 1288 (S.D. Fla. 2007);
16 *Citadel Commerce Corp. v. Cook Systems, LLC*, No. 8:08-cv-1923-T-33TGW, 2009 WL
17 1230067, *4 (M.D. Fla. May 5, 2009); *Restatement (Second) of Torts* § 767, (1995
Amendment).

18 86. Plaintiff had a legitimate, identifiable, and undeniable business relationship not only with its
19 duly executed system purchaser but also its capital funder and precious metal feedstock supplier.

20 87. That these relationships are especially advantageous considering is difficult in today's market
21 place to find a funding group who also has nearly an unlimited feedstock supply and the funding
22 required to design, build, fabricate, operate, and maintain a facility like this.

23 88. That the relationship Plasma Arc has with its engineers and plasma physicists is especially
24 integral to the success of the company because of the highly specialized field of molecular biophysics
25 and quantum mechanics. Plaintiff's plasma physicists are widely regarded as some of the world's
26 forefront leaders in "plasma and elemental physicists."

1 89. That the interference complained herein is infinitely exacerbated by the level of relationships
2 procured by Plasma Arc through its business and contractual relationships that have been interfered
3 with by Defendant.

4

5 90. That Defendants did such acts with a conscious desire to prevent Plaintiff's contractual
6 relationship from matriculating and knew the interference was certain or substantially certain to
7 derail or disrupt the contractual relationship between Plaintiff and target of Defendant-Interferer as
8 a result of the conduct.

9

10 91. Defendants were aware of Plaintiff's prospective business advantage and by engaging in the
11 unjustified conduct described more fully hereinabove, Defendants intentionally, negligently, and
12 improperly interfered with Plaintiff's prospective economic advantage in the Plasma marketplace.

13

14 92. That Defendant Voorhees is a metallurgist familiar with Plasma Technology's utility in the
15 field of metal recovery, and he surely knows Plasma's engineers are some of the top in the world as
16 it is a small pond and Plasma's Personnel are the "big fish." If not, he wouldn't have asked for their
17 help in the repairs to facility as a pretext to his elicit scheme.

18

19 93. That the Defendants knew, as evidenced by their own statements during phone calls, of the
20 funding group Plasma Arc was contracting, and subsequently contracted with, to accomplish its
21 project goals.

22

23 94. That Defendant Voorhees, through his elicit scheme (correspondence and phone calls)
24 cloaked under the pretext of repair to a machine he did not own nor had authority to fix, attempted
25 to lure Plasma Personnel and scare the contracted purchaser funding group/feedstock partner.

26

27 95. That the Defendants were clearly attempting to circumvent Plasma Arc's funding group and
28 its top personnel for Defendant's sole and exclusive economic and business interests for whom
Defendants had no justification, privilege, nor excuse.

1
2 96. That the sophisticated science and molecular biophysics involved coupled with the fact that
3 the contract feedstock partner had several hundred million dollars worth of complex precious metal
4 ore, makes this contract and its business advantage irreplaceable.

5
6 97. As a direct and proximate result of the conduct of Defendants as alleged hereinabove,
7 Plaintiff has suffered general and special pecuniary and non-pecuniary damages in an amount to be
8 proven by contract and at trial, but not less than \$17,250,600.00 USD.

9
10 98. That the Plaintiff suffered actual harm and damages as a result of Defendants' conduct.

11
12 99. That Defendants' actions were undertaken willfully, wantonly, maliciously and in reckless
13 disregard for Plaintiff's rights, and as a direct and proximate result thereof Plaintiff suffered
14 economic and in this case (involving this type of complex science and specialized molecular
15 biophysics) unquestionably irreparable damage in a total amount to be proven at trial, and therefore
16 Plaintiff seeks exemplary and punitive damages in an amount sufficient to deter said Defendant and
others from similar future wrongful conduct.

17
18 **THIRD CLAIM FOR RELIEF**

19
20 **(Defamation)**

21 100. Plaintiff hereby realleges and incorporates by reference each and every allegation set forth
22 at paragraphs 1 through 99, above, as though fully set forth herein.

23 101. Defendants false statements pertained to Plaintiff's, harmed Plaintiff's reputation amongst
24 its contract partners, and deterred third parties from associating and dealing with Plaintiff and
25 furthering its contractual relationship.

26
27 102. Defendants had no privilege to make such defamatory statements.

1 103. Defendants, and in specific Defendant Voorhees' statements are classified as defamation per
2 se by falsely accusing Plaintiff of criminal acts in the structuring of its contractual relationship with
3 Galvin Metals.

4

5 104. Defendants, and in specific Defendant Voorhees' statements are classified as defamation per
6 se as oral and written statements to Plasma personnel and contracted partners which injured Plaintiff
7 in its trade and profession, and attributed false conduct, characteristics, or conditions incompatible
8 with the proper exercise of Plaintiff's lawful trade and business.

9

10 105. That In slander per se actions, the defamatory statement is actionable on its face and damages
11 are presumed. Axelrod v. Califano, 357 So. 2d 1048, 1050 (Fla. 1st DCA 1978); Bass v. Rivera, 826
12 So.2d 534, 534 (Fla. 2nd DCA 2002); Miami Herald Publ'g Co. v. Ane, 423 So. 2d 376, 390 (Fla.
13 3d DCA 1982), *aff'd*, 458 So. 2d 239 (Fla. 1984).

14

15 106. That the nature of the false statements is such that malice and actual damage is presumed.

16

17 107. That Defendants' knew the statements made to Plaintiff's business associates, partners,
18 contractual parties false and made with an intentional disregard of the falsity and with intentional
19 and actual malice.

20

21 108. That there s no legal privilege or justification for Defendants intentionally purporting such
22 knowingly false statements to Plaintiff's business associates, personnel, partners, and contractual
23 parties.

24

25 109. That Defendants' false and malicious statements were intended to cause monetary loss and
26 Defendant should have recognized and known that his statements would result in monetary and
27 contractual loss to Plaintiff.

28

1 110. As a result of Defendants' false statements, Plaintiff has suffered through monetary damages
2 alone for the irreparable harm and damage caused by Defendants' false statements.

3
4 111. Plaintiff cannot be fully or adequately compensated solely through monetary damages alone
5 for the irreparable harm and damage caused by Defendants' false statements.

6
7 **FOURTH CLAIM FOR RELIEF**
8 **(Injunctive and Declaratory Relief)**

9 112. Plaintiff hereby alleges and incorporates by reference each and every allegation set forth
10 at paragraphs 1 through 111, above, as though fully set forth herein.

11 113. As a direct and proximate result of the foregoing conduct by Defendants, Plaintiff has
12 sustained and will continue to sustain irreparable damage to his business and has no adequate remedy
13 at law¹ to prevent repeated unfounded interference with his business relationships by Defendants,
14 and is therefore entitled to an injunction enjoining Defendants and its officers, agents, directors,
15 employees, licensees and all other persons acting by, through, or in concert with Defendants, from
16 engaging in further acts interfering with his existing business, Plasma Arc Technologies, its funding
17 group, and its plasma engineers and physicists.

18 114. Furthermore, an actual, present, and substantial controversy exists between the parties, and
19 a declaration as to the respective rights and duties of the parties, pursuant to 28 U.S.C. §§ 2201 and
20 2202, is necessary and appropriate.

21
22 **PRAYER FOR RELIEF**

23
24 **WHEREFORE** Plaintiff requests the following relief against Defendants, and
25 each of them, as follows:
26

27
28 ¹ Although a portion of this cause of action is for damages, Plasma Arc has
other contracts with this funding group, and additionally has several
contracts throughout the world. This is why injunctive relief is also
appropriate as Plasma Arc's business can be irreparably harmed in perpetuity
if the interference with its funders and physicists continues.

1 For an award of general, special, consequential and/or continuing damages from the
2 defendants, and each of them, plus prejudgment interest thereon, according to proof or by operation
3 of law not less than \$17,250,600.00;

4 For an award of exemplary and punitive damages to the extent allowed by law and in an
5 amount according to proof;

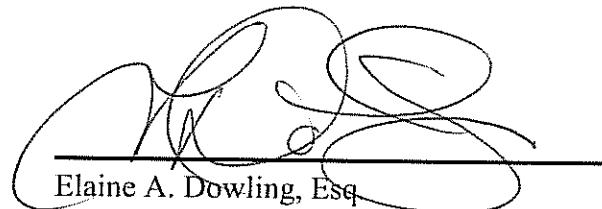
6 For preliminary and permanent injunctive and declaratory relief;

7 For attorneys' fees and costs of suit herein pursuant to statute or as otherwise may be allowed
8 by law; and,

9 For such other relief as this Court may deem just and proper.

10 DATED this 7 day of July, 2010.
11

12 **CARDWELL & DOWLING, LLP**



13
14
15
16 Elaine A. Dowling, Esq.
17 9494 W. Flamingo Ste. 101, Ste. 101
18 Las Vegas, Nevada, 89147
19 (702) 304-8203
20
21
22
23
24
25
26
27
28

20 Attorneys for Plaintiff,
Plasma Arc Technologies, Inc.